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**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA
CIVIL ACTION - LAW**

EQUAL EMPLOYMENT OPPORTUNITY	:	
COMMISSION, et. al.	:	CIVIL ACTION
Plaintiff,	:	No. 05-03389
	:	(CONSOLIDATED)
v.	:	
	:	
CONECTIV; A.C. DELLOVADE, INC.; STEEL	:	
SUPPLIERS ERECTORS, INC.; MATRIX	:	
SERVICES INDUSTRIAL CONTRACTORS	:	
(d/b/a BOGAN, INC./HAKE GROUP	:	
Defendants.	:	

PLAINTIFFS' PRE-TRIAL MEMORANDUM

A. LIST OF UNDISPUTED FACTS

1. Between 2002-2003 Conectiv was constructing a facility in Bethlehem, PA (hereinafter "Conectiv site")
2. There were approximately one thousand individuals of various trades working at the Conectiv site.
3. Approximately twenty of the one thousand workers were Black.
4. There were no African American foremen on the Conectiv site.
5. Defendant Steel Suppliers Erectors, Inc. (Steel Suppliers) was subcontractors at the Conectiv site.
6. Plaintiff, James T. Slater, was a member of Ironworkers Local 36.
7. Slater was the only black ironworker out of Ironworkers Local 36.
8. Slater was the only black employee of Defendant, Steel Suppliers.

9. Slater was employed by Steel Suppliers as an ironworker at the Conectiv's site from June 2002 until March 2003.
10. Plaintiff, Roy Grimes, was a black operator employed by, Defendant, A.C. Dellovade, Inc.
11. Grimes was employed by Dellovade as an operator at the Conectiv site from May 2002 until May 2003.
12. Keith Riddick was a member of IBEW, Local 375.
13. Riddick was employed by Matrix Services Industrial Contractors, d/b/a Bogan, Inc./Hake Group.
14. Riddick was employed by Bogan as an electrician at the Conectiv site from September 2002 until July 2003.
15. Jeffrey Campbell was a member of IBEW, Local 375
16. Campbell was employed by Matrix Services Industrial Contractors, d/b/a Bogan, Inc./Hake Group.
17. Campbell was employed by Bogan as an electrician at the Conectiv site from February 2002 until December 2002.
18. Campbell and Riddick were the only two black men Local 375 assigned to the Conectiv site.
19. There were approximately 50 portable toilets, which were covered with racial graffiti at the Conectiv site.
20. The racial graffiti on the portable toilets consisted of the following:
 - a. White power
 - b. KKK
 - c. Who Let that Dirty Nigger J.T. into Local 36
 - d. Yea who do dat
 - e. Aryan Nation
 - f. White man rules
 - g. Pictures of hooded clansman
 - h. If U not white u not right

- i. Coon
 - j. Burr head parasite
 - k. Nigger pussy trash mother fucker
 - l. MLK day in only celebrated by his brothers
 - m. Rat coons
 - n. MLK black holiday-kill 4 more so we can have the week off
 - o. J.T. = Dirty Nigger
 - p. 666 home
 - q. J.T. ballbasher
 - r. Ku Klux Klan
 - s. Seig Heil
 - t. Swastika
 - u. If black is beautiful I just ship a masterpiece
 - v. The nigger is the one who ass fucked the whore who shit out the pale face
 - w. Jack Flemish sucks nigger cock
 - x. Love the KKK
 - y. Go back to where we brought you from
 - z. Kill niggers
21. Supervisors used the portable toilets. Michael DelCasale (Soto N/T 24, attached and marked Exhibit "J"), Conectiv employees (Mann N/T 121, Ex "E"), Herman Beaulieu (Mann N/T 69, Ex. "E"), Charles Wood (Wood N/T 46, Ex. "B"), (Soto N/T 24, Ex. "J"); Joseph Kennedy (Kennedy N/T 68, 69, Ex. "F") (Keyser N/T 99, attached and marked Exhibit "K").
22. Exhibit Numbers EEOC 1066 to 1089 and 1100 are photographs taken of portable bathrooms on the construction site during the period of time that Plaintiffs were working on that site
23. Workers' hard hats displayed insignia of the Ku Klux Klan and the confederate flag.

24. There were shirts worn by co-workers on the site bearing the statement "White Power"
25. Workers on site had tattoos of KKK and other hate group insignia
26. There were symbols of white Aryan resistance, white power and confederate flags on lunch boxes, scarves, cars, helmets and tattoo of the workers. . (Soto N/T 58, 62, Ex. "J")
27. Racial jokes were openly told at the Conectiv site.
28. Hate groups solicited members in the lunch room.
29. Michael DelCasale, a/k/a Redbeard, was Conectiv's Project Manager.
30. Robert Keyser was Conectiv's Construction Manager.
31. Neil Gerwig was Conectiv's Construction Representative to Steel Suppliers and Bogan.
32. Charles Wood was Steel Supplier's General Foreman.
33. Richard Frankenfield and William Thomas were Foremen for Steel Suppliers.
34. Richard Frankenfield was president Ironworkers Local Union 36.
35. Frankenfield saw the racial graffiti depicted in EEOC Exhibit 1100 when he was on the Conectiv site.
36. Frankenfield saw the writing "JT equals dirty nigger".
37. Frankenfield saw the graffiti in EEOC's Exhibit 1078 when he was on the Conectiv site, including "who let that dirty nigger into Local 36" He knew that reference was to James Slater
38. Frankenfield believed that the racial slurs offended Slater (N/T 30, Ex. "S")
39. Frankenfield saw the word "nigger" and saw swastikas. He did not report any of the things he saw (Frankenfield N/T 23, 25, 29, Ex. "S")
40. Robert Kilpatrick was the Business Manager for Local 36.
41. Charles Mann and Anthony David were Foreman for Steel Suppliers and Union Stewards for Local 36.
42. Charles Mann also worked on the Conectiv site for Dellovade as a Foreman.
43. During the period that Charles Mann was Foreman for Steel Suppliers and during his employment with Dellovade he was told by James Slater that there was racial graffiti

- in the toilets. Mann told him to take it up with Tony David, Steward for Ironworkers Union Local 36. (Mann N/T 39, 66, 67, 68 Ex. "D")
44. Charles Mann reported James Slater's complaints to Herman Beaulieu, the Dellovade General Foreman (Mann N/T 72, Ex. "E")
 45. Ruben Soto worked for Steel Suppliers as an Ironworker. Soto testified that every bathroom he used was full of racial graffiti (Soto N/T 36-40 Ex. "J")
 46. Soto saw Wood come out of a bathroom and suggested to Redbeard that he go into the toilet to read one of the jokes. Another Steel Supplier employee said "Woody is getting his kicks off the nigger joke" (Soto N/T 24-26- Ex. "J")
 47. Soto witnessed Wood listening to "nigger" jokes.
 48. Wood never disciplined anyone or asked them to stop making comments of to stop telling racial jokes
 49. Soto heard Tony David tell racist jokes (Soto N/T 51-55, 79, 81, Ex "J")
 50. Soto saw Bill Dender, an ironworker use a Marlboro pack of cigarettes to create a KKK symbol. This took place in the Steel Suppliers' break room (Soto N/T 76, 77, Ex. "J").
 51. Anthony David remembers the incident in the trailer in which James Slater ate lunch when there were 10-20 people present when a Marlboro pack was turned to make it look like a KKK symbol and that it was passed around to several people (David N/T 64, 82, Ex. "D")
 52. Anthony David is sure there were racial comments in the trailer and that there were racial jokes. (David N/T 66, 67 Ex. "D")
 53. Soto saw a noose hanging in a HRSG building. (Soto N/T 68-71, 13, Ex. "J")
 54. Wood saw racial graffiti on the walls of the bathroom. (Wood N/T 96, Ex. "B")
 55. Wood remembers seeing the writings that are depicted in the EEOC Exhibits, which are the racial slurs listed above. Wood stated that writing on bathroom walls on construction sites is standard procedure (Wood N/T 47, 49, 63 Ex. "B")
 56. The EEOC Exhibit 1068 properly depicts the amount of writing in the bathrooms at the site. (Wood N/T 50, 51, Ex. "B")
 57. Some bathroom walls had more writing than that shown in EEOC Exhibit 1068. (Wood N/T 50, 51, Ex. "B")
 58. Thomas observed racial graffiti
 59. Charles Mann was told "Woody don't like niggers." (Mann N/T 35, Ex. "E")

60. Charles Mann was asked, "Are there many niggers in your local?" (Mann N/T 35, Ex. "E")
61. Conectiv held weekly meetings which were attended by foremen and superintendents from every trade and had the ability to discuss racial problems on the site. (Wood N/T 32, Ex. "B")
62. Wood was of the opinion that nothing could be done about the racial graffiti since it has been going on for 35 years and it is common (Wood N/T 62, 63, 99 Ex. "B")
63. Joseph Kennedy was Bogan/Hake's Project Manager and the highest ranking Bogan/Hake employee on the site. (Kennedy N/T 111, Ex. "F")
64. Joseph Kane, Terry Hartman and David Rompilla were General Foreman for Bogan/Hake.
65. Richard Anewalt, aka Butch, was an Assistant General Foreman for Bogan/Hake.
66. All the bathrooms Kennedy used on the Conectiv site had graffiti in them. (Kennedy N/T 111, Ex. "F")
67. Kennedy observed the graffiti in the bathrooms some nine months prior to Riddicks' Complaint. (Kennedy N/T 67-78, Ex. "F")
68. The graffiti was discussed at several meetings. (Kennedy N/T 67-78, Ex. "F")
69. In June of 2003, Kennedy observed a hangman's noose in the Steam Turbin 8 equipment room at the Conectiv site. (Kennedy N/T 118, Ex. "F")
70. Kennedy had the noose cut down. (Kennedy N/T 122, Ex. "F")
71. Kennedy discussed the noose with Terry Hartman and other project managers. (Kennedy N/T 122, Ex. "F")
72. Hartman saw racial slurs on the bathroom walls at the Conectiv site every time he used the bathroom. (Hartman N/T 33, 34, 35, attached and marked Exhibit "L")
73. The writings on the bathroom walls made him sick. (Hartman N/T 34 attached and marked Exhibit "L")
74. Rompilla observed writing on the bathroom walls.
75. Rompilla observed a noose on the front of a dump truck. The noose remained even after he reported it
76. There was no purpose of a noose on the Conectiv site.
77. Kane observed writing on the bathroom walls.

78. Anewalt observed the writing on the bathroom walls get worse as the project went on.
79. Terry Hartman know of a noose on the worksite
80. Rodney Haines, a Bogan employee and job steward saw writing on the bathroom walls
81. William Thomas saw writing on the bathroom walls. Even the bathrooms that supervisors used had writing in them (Thomas N/T 24, 25, 29, 30, 63 Ex. "H")
82. Charles Mann recalls that black workers were complaining about the graffiti (Mann N/T 67, 69, 71 Ex. "E")
83. Mann heard men in the trailer say "nigger" (Mann N/T 48-49 Ex. "E")
84. Man heard comments such as "how come that fucking nigger wasn't eating with us" (Mann N/T 48-49 Ex. "E")
85. Anthony David observed graffiti on the bathroom walls (David N/T 26, Ex. "D")
86. Anthony David saw the initials JT in the bathroom and knew that JT was James Slater. The graffiti was straight ahead when you walked in. He understood it to be derogatory to Slater. (David N/T 26, 38-39, 80 Ex. "D")
87. Anthony David read some of the graffiti depicted on EEOC Exhibit 1066
88. Exhibit 1066 depicts MLK, rat, coon, nigger, go back to where we brought you from, burr head, if you not white u not right, Aryan nation, white man rules, KKK, the picture of a Klansman, nigger, and a swastika (David N/T 46 Ex. "D")
89. It was agreed by Roy Grimes, Jeff Campbell and James Slater that Keith Riddick would be their spokesperson (Grimes N/T 291, 293, Exhibit "O"; Slater N/T 130, Ex. "P", Campbell N/T 216, 217 Ex. "Q"; Riddick N/T 175 Ex. "R")
90. Riddick's complaints of racial graffiti were discussed among Bogan Managers, Foreman and Superintendents (Kennedy N/T 48, 78, 81, 86 Ex. "F")
91. Riddick complained of racial graffiti and the existence of a noose to William Newhard, Business Manager of Local IBEW 375 (Newhard N/T 33, 34, 67, 69, 76, 77, 78, 79, 80, 107 Ex. "G")
92. Charles Wood never received training from the Union or anyone else on racial harassment and discrimination. He was never trained as to how to report it, recognize it, or investigate it. (Wood N/T 80, 81 Ex. "B")
93. Steel Suppliers never gave Charles Wood a handbook regarding racial discrimination or harassment or Steel Suppliers policies or procedures (Wood N/T 79, 98 Ex. "B")

94. William Thomas never received any training on how to identify racial discrimination or harassment or how to report it. He never read anything in the Steel Suppliers handbooks about racial harassment (Thomas N/T 46, 47, 49, 60 Ex. "H")
95. Charles Mann never received training from Steel Suppliers or the Union as to how to identify racial harassment or how to handle complaints of harassment. (Mann N/T 31-33 Ex. "E")
96. Anthony David never received training from Steel Suppliers or the Union as to how to identify racial harassment or how to handle complaints of harassment. (David N/T 33-34, Ex. "D")
97. Members of Local 36 should first go to the steward with complaints (Kilpatrick N/T 34 Ex. "T")
98. Charles Mann was Foreman for Steel Suppliers and a Union Steward for Local 36. Anthony David was Foreman for Steel Suppliers and a Union Steward for Local 36. Richard Frankenfield was Foreman for Steel Suppliers and President of Local 36.

WITNESSES

1. James Slater, Plaintiff
2. Keith Riddick, a black electrician who saw the racial graffiti and took pictures of the portable potties. He will testify that he saw a noose hanging in the worksite and experienced what he believed was an attempt to cause him physical harm. He was denied overtime and a foreman's position based on race.
3. Jeffrey Campbell, a black electrician who saw the racial graffiti and heard racial slurs directed at him
4. Roy Grimes, a black operator who saw the racial graffiti and was called "nigger" on the site.
5. Charles Wood, Steel Supplier Foreman who has testified that he has seen racial graffiti on the worksite. He will testify that he saw the graffiti depicted in the EEOC Exhibits photographs. Graffiti is common in all bathrooms and common on construction sites. There were weekly meeting attended by foremen and superintendents from every trade. He has no training on racial harassment or discrimination, how to identify or investigate it.
6. William Thomas, Foreman for Steel Suppliers. He has no training on racial harassment or discrimination, how to identify or investigate it.
7. Richard Frankenfield, Local 36 President, will testify that he saw "JT equals dirty nigger" and "who let that dirty nigger into Local 36" in the bathroom. He also saw other racial

graffiti. He has no training on racial harassment or discrimination, how to identify or investigate it.

8. Charles Mann, Foreman for Dellovade and Steel Suppliers will testify to the existence of racial graffiti. He knew that black tradesmen were complaining of the graffiti. He saw confederate flags on hard hats, and tattoos with swastikas. He heard racial slurs on the site. Slater complained to him of racial graffiti. He will testify that Slater was given the hardest and worst jobs on the site. He told Slater he should quit. Mann reported Slater's complaints to Herman Beaulieu, Dellovade General Foreman. He has no training on racial harassment or discrimination, how to identify or investigate it..
9. Ruben Soto, an ironworker will testify that he saw racial graffiti, heard racial slurs and jokes, heard Charles Wood and Tony David use racial slurs and tell racial jokes. Saw Brain Yannick, an ironworker hand out hate group literature and where a neo nazi sign on his hard hat. He will testify he saw Bill Dender, an ironworker use a Marlboro pack of cigarettes to create a KK symbol and pass it around the break room. He will also testify that he saw a noose hanging on the site.
10. Anthony David, an ironworker will testify that he observed racial graffiti on the walls of the portable bathrooms. He saw graffiti depicted in EEOC Exhibit photographs. He will also testify to the Marlboro pack used to make a KKK symbol and passed around the Steel Supplier trailer. He heard racial slurs and jokes. He saw JT initials on the wall and knew it was derogatory to plaintiff. He has no training on racial harassment or discrimination, how to identify or investigate it.
11. Joseph Kennedy, Project Manager for Bogan who will testify that he saw racial graffiti on the worksite and that complaints by Keith Riddick of racial harassment were discussed at several meetings. He will also testify that he observed a hangman's noose on the site
12. Terry Hartman, General Foreman for Bogan will testify that he saw things that he would say were racial slurs. He observed a noose on the worksite
13. Richard Anawalt, Assistant General Foreman for Bogan will testify that he was aware of Riddick's complaints of racial graffiti
14. David Rompilla, Foreman for Bogan will testify that he observed a noose on the front of a dump truck and reported it to Bogan. Keith Riddick complained to him of racial graffiti
15. David Reichert, Assistant General Foreman for Bogan will testify that he received a direct complaint from Keith Riddick of the racial graffiti in the bathrooms
16. Joseph Kane, General Foreman for Bogan will testify that Riddick complained to him of racial problems.
17. Verzilli & Verzilli and Consultant, Inc. will testify as to damages
18. Dr. Paul Gross will testify as to psychological treatment

19. Dr. James Jackson will testify to the affect of racial harassment on the black man.

EXHIBITS

1. Pictures taken by Keith Riddick of racial graffiti in the bathrooms previously marked EEOC 1066-1089 and 1100
2. Constitution of the International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers
3. CBA Agreement between the Area Ironworkers Employers and International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers
4. Project Labor Agreement
5. Terms and Conditions Contract
6. February 10, 2003 letter from Peter Dellovade to Mike Gambino
7. Site Pictures Bate Stamp numbers CON 000184, 000163, 000186
8. Symbols used by Hate Groups
9. Medical Bills

Respectfully submitted,

HILL WALLACK LLP

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Attorney for Plaintiffs

Dated: February 1, 2008

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SUPPLIERS ERECTORS, INC.; MATRIX	:	
SERVICES INDUSTRIAL CONTRACTORS	:	
(d/b/a BOGAN, INC./HAKE GROUP	:	
Defendants.	:	

CERTIFICATION OF SERVICE

I, JOANNE RATHGEBER, ESQUIRE, hereby certify that a true and correct copy of the Plaintiff's Pre-Trial Memorandum was served by Electronic Case Filing on the 1st day of February, 2008, to the following:

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